

THE HON'BLE SRI JUSTICE V.V.S.RAO

-
WRIT PETITION No.20223 of 1998

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Dated:28.06.2007

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Between:

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Yelamarthi Venkateswara Rao, S/o.Madhavayya.

...Petitioner

and

The Government of Andhra Pradesh,
Rep.by its Principal Secretary,
Social Welfare (LTR 2) Department,
Secretariat Buildings,
Hyderabad, and others.

...Respondents

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ORDER:

The petitioner's father allegedly purchased land admeasuring about Acs.3.00 comprised in Survey No.110 situated at Penuballi Village in Khammam District in 1968. The fifth respondent herein filed a case, being Case No.260/93/PNB, before the third respondent under Section 3(2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) ('Regulation' for brevity). The same was allowed on 31.01.1995. The petitioner then preferred C.M.A.No.12 of 1996 before the second respondent. He also filed an application for stay of the proceedings of the third respondent. As orders of stay were not followed, the petitioner preferred a revision under Section 6 of the Regulation before the Government. By G.O.Ms.No.34, dated 16.04.1998, the Government rejected the revision petition, and requested the District Collector, Khammam, to take necessary action. Thereafter, by order dated 22.05.1998, the Agent to Government dismissed the C.M.A itself observing that as the petitioner invoked the jurisdiction of the two Courts simultaneously, the C.M.A is liable to be dismissed. Hence, the petitioner filed the present Writ Petition assailing the orders of the Government as well as the orders of the Agent to Government.

Heard the learned Counsel for the petitioner and the learned

Government Pleader for Social Welfare. As rightly pointed out by the learned Counsel for the petitioner, the revision petition under Section 6 of the Regulation was filed against inaction of the Agent to Government in passing orders on the stay application in the C.M.A. The Government, however, rejected the revision and directed the Collector to take necessary action. The Government proceeded as if the revision was filed against the order of the Agent to Government, which is certainly an error apparent on the face of the record. Thereafter, presumably, under the impression that the Government has adjudicated the case finally, the Agent to Government dismissed C.M.A.No.12 of 1996 as infructuous, which is certainly a case of non-application of mind.

After giving due consideration to the background of the case and submissions made by the learned Counsel, this Court is of considered opinion that the Agent to Government should consider C.M.A.No.12 of 1996 afresh after giving opportunity to the petitioner. As this Court holds that while passing orders in G.O.Ms.No.34, dated 16.04.1998, the Government did not decide the revision against C.M.A.No.12 of 1996 as such, there is no necessity to express any opinion with regard to the Government Order. Accordingly, while ordering *status quo* as on today, the matter is remanded to the Agent to Government with a direction to dispose of the same within a period of four weeks from the date of receipt of a copy of this order ignoring the Government Orders in G.O.Ms.No.34, dated 16.04.1998.

The writ petition is accordingly allowed. No costs.

(V.V.S.RAO, J)

28.06.2007

vs